

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MDL No. 3076
CASE NO. 1:23-md-03076-KMM**

IN RE:

FTX Cryptocurrency Exchange Collapse MDL Litigation

THIS DOCUMENT RELATES TO:

All Actions

**MOTION FOR BRIEFING SCHEDULE, IN THE ALTERNATIVE TO CO-LEAD COUNSEL’S
PENDING CROSS-MOTION TO STAY (ECF NO. 317)**

On September 29, 2023, Plaintiffs filed a Cross-Motion to Stay Pending Completion of Defendant’s Criminal Trial (ECF No. 317) (“Cross-Motion”), seeking to stay all litigation in this MDL (not just discovery), pending conclusion of SBF’s trial in the Criminal Action,¹ as “the result of that proceeding will have a significant impact on what issues are ultimately in dispute.” *Id.* at 10. Plaintiffs explained that a stay of discovery *without* a stay of briefing hamstrings their ability to respond to many of the motions to dismiss, which raise objections to personal jurisdiction, service of process, and other ancillary issues that require discovery for Plaintiffs to adequately prepare fulsome oppositions, as this Court previously anticipated. *Id.* at 5-6.

On October 2, 2023, this Court issued a Paperless Order on the Motions against which the Cross-Motion was filed but made no ruling on the Cross-Motion. ECF No. 318 (the “Stay Order”). That Stay Order stays all litigation against the Insider Defendants (ECF No. 178), and all discovery against all MDL Defendants (ECF Nos. 153, 155, 157, 158, 179, 182).

¹ The “Criminal Action” means the case styled *United States v. Samuel Bankman-Fried*, No. 22 Cr. 673 (LAK) pending in the Southern District of New York.

In light of the impending deadlines for the oppositions to pending Motions to Dismiss, ECF Nos. 262–263, 265–268, 270–279, 281–283, 296–303 (the “Motions to Dismiss”), Plaintiffs met and conferred with Defendants to obtain an agreed extension to move their opposition date out while this Court considers Plaintiffs’ request for a full stay of the litigation (*see* Cross-Motion).

Plaintiffs seek this relief as an interim measure, and not in lieu of their request for a stay in their pending Cross-Motion.

Plaintiffs further note for the Court that discovery may be necessary to permit an adequate response to ECF Nos. 262, 263, 266, 267, 268, 278, 296, 297, 298, 299, and 300. Therefore, additional motion practice with regards to these motions will be necessary in the event a stay of all litigation is not granted under the Cross-Motion, as that discovery is currently precluded by the Stay Order until the completion of SBF’s trial in the Criminal Action.

As to the Domestic VC Defendants and the Bank Defendants, the Court has already entered an order extending the deadline to oppose the motions to dismiss to November 6, 2023, giving those Defendants until December 6 to file their replies. *See* ECF Nos. 239, 243.

After meeting and conferring, the Multinational VC Defendants, Brand Ambassador Defendants, and Auditor Defendants have agreed to the same schedule as a matter of professional courtesy, and not based upon the reasons stated herein.

Attempts were made to confer with Defendant Fenwick & West on September 29, October 2, and October 3, but as of the time of filing, counsel for Fenwick has not confirmed whether it can agree to this proposal.

Attempts were also made to confer with the Promoter (Youtube) Defendants, but as of the time of filing, no response has been received.

Because nearly all Defendants have agreed to this schedule, Plaintiffs hereby request that this Court set the following briefing schedule, while it considers whether to stay the litigation entirely under Plaintiffs' Cross-Motion because of the ongoing trial in the Criminal Action and the need for jurisdictional and other preliminary discovery to oppose the motions:

- Plaintiffs' Oppositions to pending Motions to Dismiss: November 6, 2023
- Defendants' Replies in support of pending Motions to Dismiss: December 6, 2023

CONCLUSION

Co-Lead Counsel respectfully request that, as an interim measure while the Court considers Plaintiffs' Cross-Motion² for a full stay of the litigation and need for preliminary discovery, the Court grant Plaintiffs an extension until November 6, 2023, to respond to all pending Motions to Dismiss, with the Defendants all to file their replies by December 6, 2023. As noted above, a Proposed Order granting this alternative request for relief is attached as **Exhibit A**.

S.D. FLA. L.R. 7.1 CERTIFICATION

Plaintiffs certify that over the past week, they have conferred or attempted to confer with the MDL Defendants in a good faith effort to resolve the issues raised in this Motion, and report as follows:

- Counsel for the Multinational VC Defendants, Brand Ambassador Defendants, and Auditor Defendants do not oppose entry of an order extending the deadline for Plaintiffs to oppose the Motions to Dismiss to November 6, 2023, and for Defendants to reply by December 6, 2023; and

² After certain defendants filed their Opposition to the Cross-Motion (ECF No. 319), Co-Lead Counsel filed their Reply (ECF No. 320) with a Proposed Order granting the Cross-Motion (ECF No. 320-1), which is currently pending before the Court for consideration.

- Defendant Fenwick & West, despite attempts to confer on September 29th, October, 2nd, and October 3rd, has not stated their position on entry of an order extending the deadline for Plaintiffs to oppose the Motions to Dismiss to November 6, 2023, and for Defendants to reply by December 6, 2023.
- Promoter (YouTube) Defendants did not respond to the request for their position on scheduling.

Respectfully submitted October 3, 2023.

By: /s/ Adam Moskowitz

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 3, 2023, a true and correct copy of the foregoing was filed electronically with the Clerk of the Court, by using the CM/ECF system which will send an electronic notification of such filing to all counsel of record.

By: /s/ Adam M. Moskowitz
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